IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 14504 of 2004

Between:

G.B.K.Reddy, Director, C/o Priyadarshini Thread Ltd., 32A, IDA,
Gandhinagar, Kukatpally, Hyderabad-72.

..... PETITIONER

AND

The Asst.Provident Fund Commissioner (Recovery) Sub-Accounts Office,
Sub-Accounts Office, 12-1, Susheeram Complex, Patancheru-502 319.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari and quash the proceedings No.AP/18551/SAO/PTC/ENF/Recy./RC No.1/02/2004/756 dated 20-7-2004 as illegal, ultra vires the provisions of the Employee's Provident Funds and Miscellaneous Provisions Act, 1952, and violative of Article 14, 19(1)(d) and 21 of Constitution of India.

Counsel for the Petitioner: MR.P.BALAJI VARMA

Counsel for the Respondent: MR.R.N.REDDY, Standing Counsel for Employees' Provident Fund Organisation

The Court at the admission stage made the following:

ORDER:

The petitioner is the Director of M/s.Priyadarshini Threads Limited (the Company, for brevity), which is an establishment covered by the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (the Act, for brevity). The petitioner admittedly committed default in paying the Provident Fund arrears (hereafter called, PF arrears) and therefore action was initiated for determination of the amount. After such determination, the respondent herein initiated action and attached the immovable properties of the Company. Even then, the amount was not paid fully and only an amount of Rs.2,42,500/- (Rupees two lakh forty two thousand and five hundred only) was paid leaving a balance of Rs.4,50,013/- (Rupees four lakh fifty thousand and thirteen only). Therefore, the respondent herein issued impugned notice dated 20.07.2004 proposing to execute the Recovery Certificate by arrest and imprisonment of the petitioner. The petitioner was asked to appear before the respondent on 30.07.2004 at 2.30 p.m. and to show cause why the petitioner should not be committed to civil prison in execution of the Certificate dated 29.05.2002. This notice is assailed by the petitioner.

Learned counsel for the petitioner Sri P.Balaji Varma submits that the impugned notice was received by the petitioner's watchman on 07.08.2004, that immediately after coming to know of the same, the petitioner has submitted a representation to the respondent on 09.08.2004 requesting for some time to clear the PF arrears. He submits that if some time is granted, the petitioner would strive to make the payment as demanded by the Provident Fund Organisation. The learned counsel also would urge that having invoked the provisions of Section 8B of the Act and attached the immovable properties of the establishment, it is not open to the respondent to resort to arrest of the petitioner. At this juncture, this question would not arise. As the petitioner was given a show cause notice as to why he should not be arrested and the petitioner has submitted a representation, it is for the respondent to consider the representation and pass appropriate orders before taking further action. In this writ petition, no relief can be granted as prayed for.

The writ petition, with the above observation, is disposed at the admission stage.

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(V.V.S.RAO,J)

17.08.2004.

pln

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Assistant Provident Fund Commissioner (Recovery), Sub-Accounts Office, 12-1, Susheeram Complex, Patancheru-502 319

2. 2 CD copies.